

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**
Newport News Division

JULIE GLENNON and THOMAS E.
OVERBY, JR., individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

ANHEUSER-BUSCH, LLC,

Defendant.

Case 4:21-cv-00141-AWA-DEM

**DEFENDANT’S MOTION TO STRIKE NAMED PLAINTIFFS’ RULE 23 CLASS
ALLEGATIONS**

Pursuant to Federal Rule of Civil Procedure 23(d)(1)(D), Defendant Anheuser-Busch, LLC (“A-B”) respectfully moves this Court to order that plaintiffs Julie Glennon and Thomas Overby (together, “Named Plaintiffs”) amend their complaint [ECF #1 “Complaint”] so as to strike from it all allegations seeking class treatment under Federal Rule of Civil Procedure 23 (“Rule 23”) for their second, third, and fourth causes of action.

In addition to asserting a single claim against A-B under the FLSA, Named Plaintiffs invoke Rule 23(a) and (b)(3) in seeking remedies under the Wage Payment Act (Va. Code § 40.1-29(J)) on a class-wide basis for alleged state law violations. *See* Compl. ¶¶ 58–64, 80–81, 92, 99. However, the Wage Payment Act limits representative actions to opt-in collective actions consistent with the collective action mechanism found in the Fair Labor Standards Act (29 U.S.C. § 216(b)). *See* Va. Code § 40.1-29(J). As explained in the memorandum filed herewith, applying the two-step analysis derived from *Shady Grove Orthopedic Associates, P.A. v. Allstate Insurance*

Co., 559 U.S. 393 (2010), Named Plaintiffs' state law claims may only proceed as a putative opt-in collective action in the same fashion as their FLSA claim.

For this reason, A-B respectfully requests that the Court enter an order pursuant to Rule 23(d)(1)(D) requiring Named Plaintiffs to amend their Complaint to remove all allegations seeking class certification under Rule 23.

Dated: February 24, 2022

Respectfully submitted,

/s/ Robert G. Lian, Jr.

Robert G. Lian, Jr. (VA Bar No. 36406)

Joshua K. Sekoski (VA Bar No. 84435)

Katherine I. Heise (*pro hac vice*)

AKIN GUMP STRAUSS HAUER & FELD
LLP

2001 K Street N.W.

Washington, D.C. 20006

Telephone: (202) 887-4000

Facsimile: (202) 887-4288

blian@akingump.com

jsekoski@akingump.com

kheise@akingump.com

*Attorneys for Defendant Anheuser-Busch,
LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 24, 2022, I electronically filed this document through the ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Robert G. Lian, Jr.

Robert G. Lian, Jr. (VA Bar No. 36406)
AKIN GUMP STRAUSS HAUER & FELD
LLP
2001 K Street N.W.
Washington, D.C. 20006
Telephone: (202) 887-4000
Facsimile: (202) 887-4288
E-mail: blian@akingump.com
*Attorney for Defendant Anheuser-Busch
LLC*